

other appropriate agencies in the preparation of a Project Implementation Report, as required by applicable law.

(2) The Project Management Plan shall include a discussion of activities to be conducted for compliance with the Fish and Wildlife Coordination Act and other applicable laws.

(3) Consistent with applicable law, policy, and regulations, coordination shall include preparation of the following documents as shown in figure 2 in Appendix A of this part:

(i) Planning Aid Letter that describes issues and opportunities related to the conservation and enhancement of fish and wildlife resources; and

(ii) Draft and final Fish and Wildlife Coordination Act Reports that provide the formal views and recommendations of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, and the Florida Fish and Wildlife Conservation Commission on alternative plans.

(f) *Project Implementation Report review and approval process.* (1) The Corps of Engineers and the non-Federal sponsor shall provide opportunities for the public to review and comment on the draft Project Implementation Report and NEPA document, in accordance with §385.18 and applicable law and Corps of Engineers policy.

(2) The Project Implementation Report shall contain an appropriate letter of intent from the non-Federal sponsor indicating concurrence with the recommendations of the Project Implementation Report.

(3) Upon the completion of the Project Implementation Report and NEPA document, the District Engineer shall submit the report and NEPA document to the Division Engineer.

(4) Upon receipt and approval of the Project Implementation Report the Division Engineer shall issue a public notice announcing completion of the Project Implementation Report based upon:

(i) The Division Engineer's endorsement of the findings and recommendations of the District Engineer; and

(ii) The Division Engineer's assessment that the project has been developed and the report prepared in accordance with current law and policy. The notice shall indicate that the report

has been submitted to Corps of Engineers Headquarters for review.

(5) Headquarters, U.S. Army Corps of Engineers shall conduct a review in accordance with applicable policies and regulations of the Corps of Engineers. Headquarters, U.S. Army Corps of Engineers shall administer the 30-day state and agency review of the Project Implementation Report, and as appropriate, file the Environmental Impact Statement with the Environmental Protection Agency.

(6) After completion of the review and other requirements of law and policy, the Chief of Engineers shall submit the Project Implementation Report and the Chief of Engineers' recommendations on the project to the Assistant Secretary of the Army for Civil Works.

(7) The Assistant Secretary of the Army for Civil Works shall review all Project Implementation Reports, and shall, prior to either approving them or submitting the Assistant Secretary's recommendations to Congress, coordinate the project and proposed recommendations with the Office of Management and Budget.

(i) For projects authorized by section 601(c) of WRDA 2000, the Assistant Secretary of the Army for Civil Works shall review and approve the Project Implementation Report prior to implementation of the project.

(ii) For projects authorized by section 601(b)(2)(C) of WRDA 2000, the Assistant Secretary of the Army for Civil Works shall review the Project Implementation Report prior to submitting the Assistant Secretary's recommendations to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate for approval.

(iii) For all other projects, the Assistant Secretary of the Army for Civil Works shall review the Project Implementation Report prior to submitting the Assistant Secretary's recommendations regarding authorization to Congress.

#### **§ 385.27 Project Cooperation Agreements.**

(a) *General.* Prior to initiating construction or implementation of a

project, the Corps of Engineers shall execute a Project Cooperation Agreement with the non-Federal sponsor in accordance with applicable law.

(b) *Verification of water reservations.* The Project Cooperation Agreement shall include a finding that the South Florida Water Management District or the Florida Department of Environmental Protection has executed under State law the reservation or allocation of water for the natural system as identified in the Project Implementation Report. Prior to execution of the Project Cooperation Agreement, the District Engineer shall verify in writing that the South Florida Water Management District or the Florida Department of Environmental Protection has executed under State law the reservation or allocation of water for the natural system as identified in the Project Implementation Report. The District Engineer's verification shall provide the basis for the finding in the Project Cooperation Agreement and be made available to the public.

(c) *Changes to water reservations.* Reservations or allocations of water are a State responsibility. Any change to the reservation or allocation of water for the natural system made under State law shall require an amendment to the Project Cooperation Agreement.

(1) The District Engineer shall, in consultation with the South Florida Water Management District, the Florida Department of Environmental Protection, the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, and other Federal, State, and local agencies, verify in writing that the revised reservation or allocation continues to provide for an appropriate quantity, timing, and distribution of water dedicated and managed for the natural system after considering any changed circumstances or new information since completion of the Project Implementation Report. In accordance with applicable State law, the non-Federal sponsor shall provide opportunities for the public to review and comment on any proposed changes in the water reservation made by the State.

(2) The Secretary of the Army shall notify the appropriate committees of Congress whenever a change to the reservation or allocation of water for the natural system executed under State law as described in the Project Implementation Report has been made. Such notification shall include the Secretary's and the State's reasons for determining that the revised reservation or allocation continues to provide for an appropriate quantity, timing, and distribution of water dedicated and managed for the natural system after considering any changed circumstances or new information since completion of the Project Implementation Report. The Secretary of the Army's notification to the appropriate committees of Congress shall be made available to the public.

(d) *Savings clause provisions.* The Project Cooperation Agreement shall ensure that the Corps of Engineers and the non-Federal sponsor not:

(1) Eliminate or transfer existing legal sources of water until a new source of comparable quantity and quality as that available on the date of enactment of WRDA 2000 is available to replace the water to be lost as a result of implementation of the Plan; and

(2) Reduce levels of service for flood protection that are:

(i) In existence on the date of enactment of WRDA 2000; and

(ii) In accordance with applicable law.

#### § 385.28 Operating Manuals.

(a) *General provisions.* (1) The Corps of Engineers and the non-Federal sponsor shall, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, develop Operating Manuals to ensure that the goals and purposes of the Plan are achieved.

(2) Operating Manuals shall consist of a System Operating Manual and Project Operating Manuals. In general, the System Operating Manual provides a system-wide operating plan for the operation of the projects of the Plan